Before The
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Revision of Procedures Governing	)	MB Docket No. 05-210
Amendments To FM Table of	)	RM-10960
Allotments and Changes of	)	
Community of Licenses in the	)	
Radio Broadcast Services.	)	

COMMENTS

1. I am a private citizen and have worked in commercial and non-commercial educational broadcasting for nearly 30 years. I hold a Bachelor's of Arts degree in Communications from Washington State University, Pullman (1984), and is currently employed in the real estate industry with a specialty in land development. Because of my background, I am uniquely qualified to bring new and different perspectives to the issues in this docket.

2. In an effort to simplify, I will only comment on a few proposals in this NPRM as I agree with many of the issues brought up by Petitioner in furtherance of the goals of streamlining the radio broadcast service.

3. But not everything is as it appears. The foremost challenge to Petitioner has been two-fold: The obstruction and stymie of the rural-to-urban "move-in" process in changing Community of License; and the removal of "non-viable" allotments. The Commission was correct in its assertion to exclude the "non-viable" allotments proposal from this *Notice of Proposed Rulemaking*, as Petitioner sought an easy cure and remedy for vacant "backfilled" allotments that they themselves created (*See* MB Docket 02-136). Thus, this NPRM must be seen through the motivation and context of making a Community of License change easy. Nothing more, nothing less. All other proposals, ie. electronic filing, using form 301, etc. is smoke, obscuring and obfuscating the main challenge at hand.

4. In furtherance of Section 307(b) of the Communications Act, and the goals enunciated by Congress and the Commission, this NPRM must be in congruence with broadcast localism policies. How can making a change in Community of License as a minor change be in the public interest? Perhaps the town has a small, diminishing population, and a change is warranted due to little commercial opportunities for the broadcaster. Or perhaps by moving, the station could increase its power and serve the same town with city-grade coverage and additional cities with 60 dbu coverage. In these cases I believe a move to a larger community that would sustain the broadcaster would be an acceptable trade-off. But come now, a move of 214 kilometers from another state? Are you kidding? How is this serving broadcast localism policies mandated by Congress and the Communications Act? The fact of the matter is that it does not. Thus, I propose a

kilometer limit to these moves of no more than 50 kilometers. This might appear arbitrary and capricious, but not in the context of providing *local* service. This will serve the broadcaster as providing a durable, sustainable service and be in conformity with Section 307(b) broadcast localism policies. Localism is a cornerstone of our democracy, and to see this disappear is a violation of trust of our Federal system.

Therefore, I propose to keep the status quo in regards to amending the FM Table of Allotments, with a 50 kilometer restriction to provide relief from economic hardship, as the sole, exclusive remedy utilizing a minor change. The covering of white area (complete loss of radio service) from such a move should be dealt with as it is currently, which is that the public interest has an expectation of continued actual radio transmission service, and that vacant "backfilled" allotments are no substitution. This particular aspect of amending The Table is currently under review *(See* Sells, AZ. MB Docket 02-376*).* A decision in *Sells* must be consummated prior to a decision in this docket.

5. The *Tuck* Analysis (*See* Richard and Faye Tuck, 3 FCC Rcd 5374 (1988) which the Commission utilizes in consideration of an applicants' proposed service in an urbanized area is fatally flawed. For example, it is entirely possible to pass a *Tuck* test on zip code, yet have the majority of that zip code population be *outside* of the proposed city. Say what? In other words, the proposed city might have a post office for that zip code, yet most of the citizens for that zip code live elsewhere in the urbanized area. This clearly goes towards the dependence of the proposed city

to the urbanized area. This is just one of the many flawed aspects of the *Tuck* analysis and therefore it should be placed on review.

5. As a land development specialist, I see an analogous situation presented. As I I work with developers and engineers in the platting of real estate, broadcasters and their investment partners seek to do much the same thing, substituting real estate for spectrum. However, when we carve out property, regulations prohibit us from filling in wetlands, as they are protected from development. In much the same way, Low Power FM stations and Class D stations are those "wetlands" which need protection from encroachment. Even though both are classified as "secondary" in nature, it seems prudent to establish clear rules for the displacement of these valuable services. Many in the educational community desire a "limited primary status" for those full-service FM's. As Congress grapples with these same issues, I think it best if the Commission steps forward and makes some decisions in concert with this docket; or as an alternative, hold this docket in abeyance pending the outcome of LPFM and legislative initiatives.

Thank you for the opportunity to comment on this docket 05-210.

Respectfully,

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